

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

v.

AARON SHAW,

Defendant.

Case No. 3:20-cr-00061-HDM-CSD

ORDER

The defendant, Aaron Shaw, has filed a motion for reduction of sentence pursuant to 18 U.S.C. § 3582(c)(1)(A). (ECF No. 87).¹ The government has opposed (ECF No. 90). The defendant has not filed a reply, and the time for doing so has expired.

Shaw is serving a sentence of 84 months' imprisonment on his conviction of three counts of Hobbs Act robbery in violation of 18 U.S.C. § 1951 (ECF Nos. 11, 43 & 45). His current projected release date is November 25, 2026.² He now seeks a reduction in sentence under § 3582(c)(1)(A).

Section 3582(c)(1)(A) provides, in relevant part:

[T]he court, . . . upon motion of the defendant after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant's behalf or the lapse of 30 days from the receipt of such a request by the warden

¹ The Federal Public Defender has filed a notice of non-supplementation pursuant to Second Amended General Order 2020-06. (ECF No. 89).

² See <https://www.bop.gov/inmateloc/> (last visited Feb. 7, 2025).

1 of the defendant's facility, whichever is earlier, may
2 reduce the term of imprisonment (and may impose a term
3 of probation or supervised release with or without
4 conditions that does not exceed the unserved portion of
the original term of imprisonment), after considering
the factors set forth in section 3553(a) to the extent
that they are applicable, if it finds that--

5 (i) extraordinary and compelling reasons warrant such a
6 reduction;

7 . . .

8 and that such a reduction is consistent with applicable
policy statements issued by the Sentencing Commission.³

9 The applicable policy statement is set forth in U.S.S.G.
10 § 1B1.13.⁴ Section 1B1.13 provides, in relevant part, that a
11 § 3582(c)(1)(A) motion may be granted upon a finding that: (1)
12 extraordinary and compelling reasons warrant a reduction; (2) the
13 defendant is not a danger to the safety of any other person or to
14 the community, as provided in 18 U.S.S. § 3142(g); and (3) the
15 reduction is consistent with the policy statement.

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18 ³ In addition to "extraordinary and compelling reasons," the court
19 may grant a motion if "the defendant is at least 70 years of age,
20 has served at least 30 years in prison, pursuant to a sentence
21 imposed under section 3559(c), for the offense or offenses for
22 which the defendant is currently imprisoned, and a determination
23 has been made by the Director of the Bureau of Prisons that the
defendant is not a danger to the safety of any other person or the
community, as provided under section 3142(g)." 18 U.S.C. §
3582(c)(1)(A)(ii). Shaw has not served more than thirty years in
prison and is not at least 70 years old, so this provision does
not apply.

24 ⁴ *United States v. Aruda*, 993 F.3d 797, 801-02 (9th Cir. 2021),
25 which held that the version of § 1B1.13 then in effect was not an
26 "applicable policy statement" binding on the courts, no longer
controls following the November 2023 amendments to § 1B1.13. See
27 *United States v. Eklund*, 2024 WL 623903, at *1 (D. Alaska Feb. 14,
2024); *United States v. Arcila*, 2024 WL 578688, at *2 (D. Or. Feb.
28 12, 2024); *United States v. Ashcraft*, 2024 WL 519966, at *1 (E.D.
Cal. Feb. 9, 2024).

1 A defendant is not entitled to be present for any hearing on
2 a motion for compassionate release. See Fed. R. Crim. P. 43(b)(4).

3 Shaw asserts that extraordinary and compelling reasons exist
4 because his mother, who he claims is the caretaker for his minor
5 daughter, is having hip surgery, and because he has been
6 rehabilitated. The government argues that Shaw has not satisfied
7 the requirements for relief set forth in § 1B1.13.

8 U.S.S.G. § 1B1.13(b)(3)(A) identifies as a potential
9 extraordinary and compelling reason "[t]he death or incapacitation
10 of the caregiver of the defendant's minor child." Shaw has failed
11 to establish that he has a minor child who is being cared for by
12 his mother, even assuming that his mother's hip surgery would
13 incapacitate her from caring for a child. Accordingly, Shaw has
14 not established extraordinary and compelling reasons on this
15 basis.

16 To the extent Shaw claims that he needs to be released to
17 care for his mother after her surgery, U.S.S.G. § 1B1.13(b)(3)(C)
18 identifies as potential extraordinary and compelling reasons
19 "[t]he incapacitation of the defendant's parent when the defendant
20 would be the only available caregiver for the parent." Even
21 assuming the surgery would incapacitate Shaw's mother, Shaw has
22 not established that he is his mother's only available caregiver.
23 In fact, the PSR indicates that Shaw has multiple adult siblings.
24 (PSR ¶ 107). Accordingly, to the extent he bases his request on
25 § 1B1.13(b)(3)(C), Shaw has failed to establish extraordinary and
26 compelling reasons for release.

27 Moreover, Shaw's rehabilitative efforts do not on their own
28 or in combination with the other factors support a finding of


1 extraordinary and compelling reasons for a reduction in sentence.
2 See U.S.S.G. § 1B1.13(d).

3 Finally, even if there were extraordinary and compelling
4 reasons for a sentence reduction, the relevant § 3553(a) factors
5 do not favor a reduction in sentence here. As the court previously
6 explained, the nature and circumstances of the offenses were
7 violent and included not only pointing a firearm at multiple
8 victims but doing so at close range and with threats to kill, and
9 Shaw's history and characteristics are also steeped in violence.
10 An 84-month sentence remains necessary to reflect the seriousness
11 of the offense, to promote respect for the law, to provide just
12 punishment for the offense, to afford adequate deterrence to
13 criminal conduct, to protect the public from further crimes of the
14 defendant, and also to avoid unwarranted sentence disparities
15 among defendants with similar records who have been found guilty
16 of similar conduct.

17 Accordingly, IT IS THEREFORE ORDERED that Shaw's motion for
18 reduction of sentence (ECF No. 87) is DENIED.

19 IT IS SO ORDERED.

20 DATED: This 7th day of February, 2025.

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23 UNITED STATES DISTRICT JUDGE
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